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ABSTRACT

This paper examines regulatory reform initiatives being considered and adopted in several states for the deregulation of academic program policies in public institutions of higher education. Many policymakers feel that academic program policies, which were designed to control growth and temper institutional aspirations, may instead hinder responsiveness to market and state demands. States involved in deregulation include Illinois, Texas, Kentucky, Virginia, South Carolina, Oklahoma, Colorado, Wisconsin, and Indiana. The following major areas of change are being proposed and/or adopted by specific states: (1) shifting from input to outcome criteria with an increasing focus on program outcomes and improvement over time (Illinois, Virginia); (2) taking a more proactive role in program development involvement of the state board early in program development (Wisconsin, Colorado, Oklahoma, Illinois); (3) strengthening the decision role exercised by campus boards by delegating some program approval decisions to the board or agency staff (Texas, Colorado, Illinois, South Carolina, Kentucky); and (4) deregulation of the distance learning approval process (Indiana, South Carolina, Oklahoma). Possible negative consequences of a changing regulatory environment identified include increased duplication and program proliferation. (Contains 17 endnotes.) (DB)

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Deregulation of State-level Academic Program Policies

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January 1999

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The State Higher Education Executive Officers is a nonprofit, nationwide association of the chief executive officers serving statewide coordinating boards and governing boards of postsecondary education. Its objectives include developing the interest of the states in supporting quality higher education; promoting the importance of state planning and coordination as the most effective means of gaining public confidence in higher education; and encouraging cooperative relationships with the federal government, colleges and universities and other institutional state-based associations. Forty-nine states and Puerto Rico are members.

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Deregulation of State-level Academic Program Policies

by Rhonda Martin Epper

Introduction

America's current predisposition toward smaller government, lower taxes, and greater entrepreneurialism is readily apparent. Comprehensive proposals are being debated in many states and at the federal level to ease, reform, or remove government regulation in both the public and private sectors. Moreover, scholarly studies consistently have shown that regulatory reform can create numerous consumer benefits, such as lower prices and higher levels of service.[1] The experience with deregulation in industries such as natural gas, telecommunications, and the airlines indicates that the competition resulting from deregulation can inspire companies to adopt innovations in technology, marketing, and business strategy--all with an eye toward continuously reducing costs and enhancing quality.

Deregulation, which has been under way for decades in certain industries, began gathering steam among higher education leaders early in the 1990s. Not unrelated was the movement toward assessing outcomes as well as public enthusiasm for "reinventing government." At the same time, new technologies such as distance learning were gaining popularity, followed by the explosion of the Internet. With demand for higher education increasing, there also appears to be less concern among policymakers about program expansion, especially in low-cost program areas that serve adult learning populations.

Pressure appears to have mounted from all directions--public sentiment toward government, technological changes, demographic changes--for our public higher education systems to become more aggressive, responsive, and agile. The "customers" of higher education (namely, students, communities, businesses) want educational services delivered to them

conveniently and cost-effectively. If our public postsecondary institutions are constrained by unnecessary regulatory mechanisms, then private providers that can respond quickly to market demands will seize the market opportunities.

At the same time, market economies have their shortcomings. Efficient markets expect informed consumers who have resources to spend, and these markets generally neglect the disadvantaged. State boards of higher education have an obligation to uphold the values of fairness, equity, and affordability, as well as to ensure quality. They also must respond to legitimate concerns of legislators for controlling "unnecessary duplication" in the public sector. Market mechanisms do not necessarily reward these values, so state boards will need to make up for the shortcomings of a more open and competitive system of higher education.[2]

Leaders of state higher education systems have begun examining and adopting regulatory reforms in both administrative and programmatic areas. In his book, *Seeking Excellence Through Independence*, Terrence J. MacTaggart assembled a thoughtful collection of cases and ideas about restoring more independence upon our public colleges and universities.[3] His conclusion, based on case studies of Maryland, New Jersey, and Michigan, was that greater autonomy results in higher quality without sacrificing access and ethnic diversity. Cost savings, however, were found to be questionable. While deregulation in market economies usually results in lower costs, this may not hold true in higher education, given resistance to measures that might gain economies of scale. In the private sector, deregulation in some cases has lead to larger scale operations and some centralization, especially for service functions. The current wave of "mergers and acquisitions" as a method for restructuring and downsizing is another by-product of deregulation in the private sector which is not yet evident in higher education.

Without economies of scale produced by efficiently governed systems (especially those with concentrated service functions such as legal counsel, internal audit, and payroll) and

without centralized control of academic programs, duplication of both services and programs will likely ensue. Free market advocates would argue that duplication creates more opportunities and choices for consumers, and would prefer that the market, rather than a central bureaucracy, decide which programs succeed. The problem with that argument, as Margaret Miller, president of the American Association for Higher Education, so aptly put it in a recent meeting of state higher education academic officers, is that, "In the market, things stop that don't succeed." In higher education, elimination of unsuccessful programs is such a painful and difficult process for faculty, students, and institutions that it is rarely done.

At the request of several states that are in the midst of academic program policy changes, SHEEO convened a small group of executives and their staff members in August 1998 to discuss changes being considered and future directions for academic program approval and review policies. In addition, the State Higher Education Academic Officers held a session on academic program deregulation at their annual meeting in Providence, Rhode Island in August 1998. Many of the ideas and changes discussed in this paper emerged from those discussions. This paper will focus on regulatory reform initiatives being considered and adopted in several states. While numerous states have successfully delegated authority to institutions in *administrative* areas such as legal counsel, capital construction, and personnel, this paper will address state attempts to deregulate *academic* program policies.[4]

Why Change Academic Program Policies?

The original purpose of statewide program approval and review was to "rationalize" the program scope and growth of public institutions of higher education. According to John Millett, former chancellor of the Ohio Board of Regents, there was a perception among state government officials at the end of the 1970s of widespread duplication of programs, especially at the graduate

and Ph.D. levels.[5] Program approval and review was seen as a way to promote efficiency by maintaining central control of a statewide program inventory. This regulatory authority, vested in statewide boards, allowed them to fulfill their responsibility for maintaining mission distinction and preventing unnecessary program duplication within a system.

In most states, academic program policies were established prior to changing student demographics, global competition, and exploding technological advancement. Academic program policies, which were designed to control growth and temper institutional aspirations, now appear to hinder responsiveness to market and state demands. Furthermore, in some states the old policies force coordinating board staff to operate reactively rather than proactively; perhaps most importantly, boards often do not hold institutions accountable for their program-related decisions.

A July 1998 survey of state higher education academic officers revealed that several states are undertaking changes to their academic program polices, changes that were motivated by a desire to deregulate the approval process.[6] States considering or in the process of adopting changes included Illinois, Texas, Kentucky, Virginia, South Carolina, Oklahoma, Colorado, Wisconsin, and Indiana. The following sections describe the major areas of change being proposed and adopted in the states. While not mutually exclusive, these areas of change include: (1) shifting from input to outcome criteria; (2) taking a more proactive and collaborative role in program development (3) strengthening the decision role exercised by campus boards; and (4) deregulating the distance learning approval process.

Shifting from Input to Outcome Criteria

In an effort to streamline the approval process, a few states are proposing to put less regulatory emphasis on initial program approval and instead focus on outcomes and program

improvement over time. This shift not only affects the approval process, but also implies a strengthened approach to program review.

Illinois: In its October 1998 board agenda, the Illinois Board of Higher Education (IBHE) proposed to redesign its program approval and review process with the expectation that institutions would become more accountable for their program decisions. The new process involves "objectives-based" program approval and "outcomes-based" program review.

The *objectives-based approval process* would shift the focus from inputs (for example, resource needs such as faculty, equipment, and budget) to outcomes (for example, student achievement, placement, and contributions to economic development). The major work in preparing an application for a new program would be crafting objectives and developing related outcome measures or benchmarks. Current application materials request responses to 31 questions and completion of three tables. The IBHE staff expect that the objectives-based approval process would cut the application materials in half. The *outcomes-based program review process* would be rooted in the expectation that programs will change and improve over time. Reviews at both the institutional and state levels would be informed by the systematic use of a set of general indicators of program cost, viability, and quality. The first review of a recently established program would focus on the extent to which the program had achieved or was moving toward the objectives outlined in the application. Subsequent reviews would focus on findings, improvements, and actions taken. Results of program review would be incorporated into a new "Results Report."

Virginia: The State Council of Higher Education for Virginia (SCHEV), at its November 1998 meeting, approved the concept of streamlining the state's program approval process. The intent of the Council is to focus on "intended outcomes" of proposed new programs and how the institution plans to judge whether the program is meeting those outcomes. The staff estimate that

through a new approval process that focuses less on the front-end approval, the initial data institutions are required to submit for program approval could be decreased by at least 50%.

At the same time, the Council will participate in an on-going program review process to ensure that institutional expectations are being met. First, a three to five year check for all newly approved programs, which will involve the Council and institutional staff, will result in a plan for continuance, improvement, or closure. Second, the Council will design a process similar to the European "academic audit"[7] in which the Council approves the institutional policies and procedures for program reviews, but relies on institutions to actually evaluate the 1300 programs existing throughout the state. The Council staff will make periodic audits of institutions to see that they are following their policies and procedures regarding program reviews. At that time, the staff also will audit selected program reviews. Reviews of individual programs will not be submitted to the Council. The Council directed its staff to work with institutions in developing these new policies and procedures and to bring them to the Council no later than its April 1999 meeting.

Taking a More Proactive and Collaborative Role in Program Development

Academic program development traditionally has been a "trickle up" process, with program proposals originating from academic departments. As proposals make their way up to the state board for approval, institutions typically are required to develop a projection of future enrollments. These projections often are unsophisticated, conducted as a matter of compliance with state regulation. In many cases, statewide need and demand are considered only after the proposal arrives at the state board. Some states – Wisconsin and Colorado are two – are developing a more collaborative process to get the state board involved early on in program development. Other states are creating mechanisms to identify program needs at the state or

regional level, then request involvement from the campuses. Whether it is a statewide market research unit, an RFP process, or regional planning entity, several states are turning the traditional program development process on its head and placing state and institutional boards in a proactive rather than reactive position.

Wisconsin: The University of Wisconsin System revamped its Guidelines for Academic Program Planning and Approval in July 1998. Under the old policy, institutions developed detailed new program proposals independent of system staff and other institutions. Proposals were reviewed by system staff and frequently sent back to the institution for revision or additional information. After a lengthy process, the proposal was eventually sent to the system board for approval. In short, there was little collaboration between campuses and the system office on the front end of program development. Under the new policy, the institution submits to the system a three to five page memo outlining its plans to create a new program, which is then circulated to all UW campuses for review. The purpose of this review is for campuses to express concerns early on and also to consider the potential for collaboration. Once initial approval is granted, the full proposal must be evaluated and approved by the institutional governing board, two outside consultants, and a three-person review team (two from the campus and one from the UW System Office of Academic Affairs). This approach represents a new way of getting the system administration actively involved in working with the campus to ensure that the very best proposal possible is sent to the board.

In addition, the program approval process is now more closely aligned with the program review process. About five years after a new program is implemented, the institution and the UW System administration will conduct a joint review. In the past, the campus prepared a written review and sent it to the system office for review and feedback. Now, the process involves interaction between the UW System Office of Academic Affairs and campus

representatives through a three-person review team (when possible, composed of the same people participating in the authorization to implement). Results of this joint review are submitted to the senior vice president for academic affairs for final action.

In addition to revising its program approval guidelines, the University of Wisconsin System developed a Market Research Unit to help develop a more timely, research-driven understanding of their market environments at the institutional, regional, and systemwide levels. Since its inception in late 1997, the unit has completed a competitive analysis of in-state competitors as well as out-of-state competitors (for example, Which states and institutions are taking a growing share of Wisconsin's immediate high school graduates?). The UW System is convinced the higher education market of the future will be comprised of niches and multiple segments, including immediate high school graduates, adults, minorities, international students, distance education students, and employer-based worksite programs. The Market Research Unit aims to develop strategies for marketing, recruiting, and retaining students in each of these segments. The UW System also created a Center for Learning Innovation to develop, market, distribute, and support technology-based learning products and services on behalf of the entire system. The Center is aligned with the Wisconsin Survey Research Lab, which provides market research and other data to the Center on programming needs in the state.

Oklahoma: The Oklahoma State Regents for Higher Education have adopted the concept of "learning sites" in order to improve the accessibility and relevance of educational programs available to employers and citizens throughout the state. The Regents have formally designated physical locations to serve as learning or "receive" sites. Initially, the sites will be existing institutions and their branch campuses. One non-higher education center, provided by Conoco, will operate as a pilot to serve the Ponca City area. Learning sites will determine the educational needs of the population in their assigned geographic areas, and identify providers (or sets of

providers) that can deliver the necessary courses and programs to their sites. It is important to note that "geographic service areas," in which institutions hold a monopoly position in providing programs they are authorized to offer, will evolve into "responsibility areas," for which learning sites will ensure that priority needs are met.

State funding for programmatic capacity will be focused on improving and extending the reach of existing programs. New programs will be created when:

- no acceptable providers of a needed program can be identified.
- the Regents determine that a new program is in the long-term interests of the state. Regents will develop criteria for determining when the state should purchase programming from an out-of-state provider in lieu of developing in-state capacity.
- opportunities for improved quality, delivery, and cost-savings can be achieved through collaboration of several institutions in developing programs, courses, or modules for both distance and on-campus delivery.[8]

The Regents have established minimum requirements for functions that must be performed at each learning site, including student services, instructional support services, and administrative services. At the October 1998 meeting, the Regents approved allocation of $100,000 to each institution to establish and improve facilities and capacity to receive electronic instruction. In future years, funding for the learning sites will be incrementally increased by a small percentage, with additional funds to be allocated on the basis of numbers of students and courses received. The Regents also have created a "curriculum development fund" to support initiatives from institutions or inter-institutional teams to develop new curricula, modules, or new pedagogical methods, and a "priority investment fund" to help accomplish state priorities in instances where

those priorities (for example, early childhood, teacher education) are not being met through other funding mechanisms.

Illinois: In January 1998, the Illinois Board of Higher Education established a committee to study the educational needs of the north Chicago suburbs. In September 1998, the Board accepted the committee's recommendation to create a regional multi-university center known as the University Center of Lake County. The Center will offer baccalaureate degree completion, post-baccalaureate certificates, and master's level degrees. It will build upon the ongoing activities of 12 public and private institutions to expand off-campus programming in this region. The work of the study committee featured a comprehensive review of Lake County's educational needs. Extensive market research, as well as demographic and economic analysis, informed all aspects of the committee's recommendation to build the new Center. The study found strong local demand, particularly among place-bound residents and working adults. Data showed that residents and employers have the greatest interest in information technology, business, and education programs.[9]

A distinctive characteristic of the University Center is that program offerings will be based on market need. By relying on established institutions and programs, the University Center can make programs available as needed in a number of fields. Needs analysis will be an ongoing activity of the Center, through which new programs will be started and existing programs discontinued according to changes in demand. The committee's study identified programs that residents and employers in Lake County were seeking and asked the 12 member institutions of the Center to respond by October 1998 to a "Request for Participation" (RFP) indicating how identified needs could be met. Ten of the 12 institutions responded with program proposals (18 bachelor's, 28 graduate, and 15 certificate). The RFPs also included requests to offer courses. For example, Northern Illinois University proposes to deliver graduate courses in

nursing and the University of Illinois at Chicago proposes to offer customized workforce courses.

The Board of Higher Education is in the process of reviewing these proposals, and admits that program duplication may be an issue. Opportunities exist, however, for further collaboration among the participating institutions. After completing the review process, significant areas of need may remain. Also, future needs analysis may identify emerging demand to which member institutions cannot immediately respond. The study committee recommended that the University Center have funds available for program development and support. These funds would allow the Center to develop or support a new program by submitting an RFP outside the 12 member institutions.

Strengthen the Decision Role Exercised by Campus Boards

Several state boards are in the process of delegating authority for certain types of program approval, especially in low-cost and non-controversial program areas. In some cases, authority has shifted from the board itself to the agency staff. While this might not seem like a big step toward deregulation, in each of the following examples SHEEO staff are relying more on institutional governing boards to come forward with proposals that have gone through a rigorous internal evaluation. The SHEEO agency works with institutions in setting program criteria, but institutional governing boards are doing much of the substantive program evaluation. State boards continue to focus on statewide issues, such as relation to mission, state need, and duplication.

Texas: Texas has streamlined its program approval process by shifting some authority to approve new degree programs from the coordinating board to the staff. In September 1997, the Texas Higher Education Coordinating Board began a broad examination of its role, policies,

procedures, and activities. It commissioned an external review panel, which was asked to consider two questions: "What should the agency do?" and "What should it not do?" to add the greatest value to Texas higher education and to the state. The review panel recommended that the Board and staff "devote more resources to identify and deal with major issues for the state and fewer resources to decisions that are either minor or are more appropriately and productively made by the governing boards of the affected higher education institutions."[10] At the July 1998 Board meeting, Commissioner Don Brown presented an overall plan for carrying out the review panel's recommendations. Several changes in the Coordinating Board's policies concerning approval of new degree programs and facilities will be necessary. The basic elements of the proposed changes include:

- The Coordinating Board would establish written criteria that degree program and facility proposals must meet to be approved.
- The Coordinating Board would establish thresholds of cost or degree program level below which the Commissioner would be authorized to issue approvals on behalf of the Board.
- The Commissioner's action would be limited to approval of a proposal or referral to the full Board.

These changes will allow the Board to concentrate its efforts on major policy issues (such as setting criteria for approvable degree programs and selectively reviewing existing degree programs) by spending less time considering non-controversial degree program and facility requests. The changes also would move more responsibility to governing boards to ensure that program proposals meet Coordinating Board policy, and allow institutions to respond more quickly to changing needs by reducing the time required to obtain approval of less costly and non-controversial degree programs.[11]

The new policy represents a significant departure from current practice in two ways. First, it sends a signal to the governing boards that their proposals will be "taken to heart." In other words, they should not rely on Coordinating Board staff to point out the weaknesses. If the governing board certifies that all the Coordinating Board criteria have been met (and the proposal meets the non-controversial threshold), then the Commissioner will likely approve the proposal. Second, the new process will save the staff a considerable amount of time that was once spent writing up program proposals in detail with a rationale to be presented to the board. The Coordinating Board is scheduled to adopt the new policies and procedures at its January 1999 meeting.

Colorado: The Colorado Commission on Higher Education partially deregulated its policy for approving new degree programs in November 1996. In essence, the policy delegates the substantive analysis of new degree proposals to the institutional governing boards while reserving the state-level analysis for the Commission. Under the new policy, the Commission's role is to ensure the institutional governing board is following its own process for evaluating the substance (for example, quality, capacity, cost-effectiveness) of new program proposals, and to identify state-level issues associated with proposed new programs (such as role and mission, duplication, bona fide need).

Before developing a full proposal, the governing board is instructed to submit a short "concept paper," which outlines the proposed program's goals, design, intended market, etc. This preliminary step allows the Commission to discuss the program concept and state issues relevant to the proposal, including concerns of other governing boards, at a regularly scheduled Commission meeting. If no potential or unresolved state issues are identified, the Commission may delegate degree approval to the executive director (although this has not been done for better than a year now).

As part of its new responsibility, the governing board is required to adopt a "degree approval policy" that outlines criteria for new program proposals. The Commission must approve this policy. When the Commission accepts a governing board's degree approval policy, it effectively delegates its statutory authority to the governing board to conduct the following: an external consultant review, a peer review of program quality and delivery, and an analysis of program related issues (quality, capacity, cost-effectiveness). After a governing board approves a new degree request under its own policy, it submits the substantive analysis and supporting material to the Commission. Commission staff will review the material to ensure that it complies with the adopted governing board policy, and return the proposal to the Commission for action (unless approval authority has been delegated).

According to Jim Sulton, senior academic officer for the Commission, the decentralization of program approval has not reduced the flow of new program proposals. On the contrary, it may have led to their proliferation. An unintended consequence of the new program approval policy has been the impression among institutions that the Commission will approve new degrees with greater ease than ever before. One institutional governing board in particular has taken advantage of the new policy by submitting a "virtual flood" of concept papers and new program proposals.

Illinois: In September 1998, the Illinois Board of Higher Education (IBHE) approved several changes in program approval processes for community colleges, including temporary approval and delegation of approval for certificate programs to the Community College Board. Parallel changes are proposed for the state's public universities, which are expected to be implemented by July 1999. The short-term changes proposed for the universities could best be described as a "ratcheting down" of approval authority from the Board to the staff to the institutions. For example, the creation of a certificate program in a field or at a level in which

there is not a previously approved degree program currently requires Board action. Under the proposed changes, this would be handled as a "Reasonable and Moderate Extension," which is an administrative action by the IBHE staff. Similarly, the creation of certain certificate programs in a field in which there *is* a previously approved degree program at the same level currently is handled as a "Reasonable and Moderate Extension." Under the proposed changes, this would only be included in a list of program changes submitted by the university to IBHE annually.[12]

South Carolina: During fall 1998, the South Carolina Commission on Higher Education adopted a revised set of guidelines for new academic program approval. The goal in setting out the new guidelines was to "update and streamline Commission policy to ensure that it is not unduly burdensome on or regulatory of the public colleges and universities in the state."[13] Some of the major changes proposed in the new guidelines include the following:

- Senior institutions may now offer certificates totaling 18 or fewer credit hours in a field or major for which the institution is not approved; or, certificates of any duration in a field or major for which the institution is already approved without Commission review and approval.
- Institutions may add options or concentrations to existing programs where the new option has the same CIP (classification of instructional programs) code as the major and where the option totals 18 or fewer credit hours without Commission review and approval.
- Institutions may now develop and implement new centers, bureaus, and institutes without Commission approval when those entities do not require additional new appropriations from the state.

In addition, the Commission significantly deregulated distance education programs, which will be described later.

Kentucky: At its September 1998 board meeting, the Kentucky Council on Postsecondary Education directed its staff to develop (by January 1999) a recommendation to "replace current academic program approval policies and reporting requirements with new ones that enable institutions to respond quickly to changing market demands and place primary responsibility for quality assurance with institutional governing boards, within broad systemwide guidelines that address statewide needs and protect consumer interests." The rationale for this directive was primarily that the current policies covering academic programs were created prior to major changes affecting higher education in the state, including a legislative restructuring act (House Bill 1), demographic changes, and the technology revolution.

In November 1997, the Council initiated a comprehensive review of all academic program policies. One purpose of that review was to create an integrated, complementary set of procedures that would cover the entire life of an academic program, including conceptualization, development, delivery, and review. The Council also approved an *Interim Policy for New and Postponed Academic Program Proposals* as a short-term response to institutional needs, until a new system of academic program approval policies could be developed. In preparation for their work, the Council Staff outlined a set of development principles that will underlie the new and less regulatory system of academic program policies. Some of the principles include the following:

- Identify groupings or "bands" of programs, by institution or institutional sector, that require (1) governing board approval only, (2) governing board and Council staff approval, or (3) both governing board and Council approval.
- Include mechanisms, such as financial incentives, a Council "request for proposal" process, and community petitions for encouraging institutions to offer programs to

address emerging social issues, respond to unmet state and regional needs, or redesign stagnant curricula.

- Place greater responsibility on the institutional governing boards for assuring that the institutions offer collaborative, high-quality, and relevant programs where, how, when, and to whom they are needed.
- Stress the importance of market research as a means of discovering new and underserved educational markets.
- Be complemented by performance indicators and consumer information.
- Discourage the proliferation of low productivity programs and the expansion of high cost programs without sound justification.
- Stress the importance of collaboration on program development and delivery and discourage unreasonable program duplication.

Academic program policies in Kentucky will be revised to provide institutions with greater flexibility and responsibility for the academic program decisions they make about developing new programs, reviewing, sustaining, and revitalizing existing programs, and eliminating non-productive or unnecessary programs.[14]

Deregulate the Distance Learning Approval Process

A national survey of SHEEO academic officers, conducted in June 1998, revealed that most states are taking steps toward deregulating their policies concerning distance education technology. More than 20 states have eliminated geographic service areas under certain conditions and 10 states have eliminated service areas for all programs using distance education technology. Several states have developed separate policies for the approval of new programs

offered through distance education. The intent of these policies, in most cases, is to streamline the approval process and allow institutions to respond quickly to changes in market demand for electronically delivered programs and courses.

Indiana: On March 13, 1998, the Indiana Commission for Higher Education approved the *Policy for Delivering Degree Programs Through Distance Education Technology*. Part of its purpose was to make it easier for campuses to respond quickly to new opportunities for serving students through distance education, and to streamline Commission procedures for handling requests to offer degree programs through distance education technology.

One component of the new policy shortens the cycle time for approval of new programs offered through distance education. If the degree program is currently offered on campus and a substantial number of credit hours will be delivered through distance education, then the program request will be on the Commission's agenda for action within 60 days of submitting the proposal. In addition, the new policy effectively eliminates geographic service areas for distance education programs. The policy states that "for degree programs delivered through distance education technology, the standard Commission authorization will extend to all 92 counties of the state." Furthermore, the policy indicates that "program duplication will not be a factor that the Commission will consider in authorizing degree programs delivered through distance education technology."[15] The policy instructs all campuses to provide the Commission with a description of their process for reviewing distance education programs on a regular basis. By March 15 of each year, each institution is asked to submit to the Commission a list of distance education degree programs the institution plans to develop over the next two years. The Commission will then convene the institutions to consider how they might coordinate their plans.

South Carolina: As part of its revised *Guidelines for New Academic Program Approval* described earlier, the South Carolina Commission on Higher Education, in September 1998, lifted much of the regulatory constraints on distance learning programs in the state. Major changes concerning distance learning programs include the following:

- Institutions may now offer any existing program or part of a program out of state or out of country without Commission review and approval if the program requires no additional appropriation from the state.
- Institutions may now offer any or all of an approved program to additional sites solely by distance education without Commission review and approval.

The institutional representatives who recommended these changes believed the new policy was necessary as a means of enabling colleges and universities to offer programming in a more rapid fashion to meet the needs of private industry and nontraditional students.[16] Interestingly, after the Commission basically "got out of the business" of regulating distance education programs, the institutions expressed concern over potential competition and duplication. Therefore, the institutions themselves have formed their own organization to coordinate distance education in the state, and have requested $600,000 from the legislature to support their efforts.

Oklahoma: In June 1998, the Oklahoma State Regents for Higher Education revised their "Policies and Procedures Pertaining to the Electronic Delivery of Courses and Programs."[17] In the past, the State Regents were responsible for approving every distance education *course* individually from every public institution. Now the Regents only approve *programs*, defined as 50% or more of the courses for the major or if the program is advertised as available in electronic form. In addition, the new policy eliminated geographic service areas, and shortened the turnaround time on new program requests to about three to six weeks. Under the new policy, the State Regents approve new electronic degree programs on a provisional basis for a specified

period of time pending a "best practice" evaluation. The "best practice" review will include the following activities:

- the systematic identification of qualitative processes that contribute to high performing institutions in the particular mode of delivery (using external consultants to assist as needed in this process);
- the identification of quantitative benchmarks against which progress and success can be measured;
- the systematic survey of potential "best practice" sites both in the state of Oklahoma and outside the state to discover which institutions have been successful;
- site visits and/or personal interviews with key personnel at the "best practice" sites;
- a summary of findings and implementation plan for making the necessary improvements in processes to achieve "best practice."

The provisionally approved program must also provide information on students' background, knowledge, technology skills, retention, learning outcomes, and both student and faculty satisfaction. The role of the State Regents' staff is to assist in the design of "best practice" studies and to solicit other participants initiating similar programs. An institution will receive "continuing program approval" based upon the conduct of the "best practice" review and plans for implementing the identified "best practices," review and approval of the North Central Association, and other productivity or qualitative standards that might have been set at the time of provisional approval.

The Consequences of a Changing Regulatory Environment

During the August 1998 meeting in Denver and the Academic Officers 1998 meeting in Providence, Rhode Island, several concerns were raised over what might happen in a free-market academic environment. The most likely result, it seems, would be increased duplication and possible proliferation of programs. Colorado already has witnessed an increase in the number of proposals (or "concept papers") under its new approval policy. The Illinois Board of Higher Education received multiple and in some cases duplicative degree proposals for its new Lake County University Center under an RFP process. Another result appears to be negative reaction from some institutions that had previously enjoyed the protection and stability provided by the regulatory environment. Many institutions may prefer state program approval and review (whether they admit it or not) because it relieves them of responsibility for program development and the difficult task of saying "no." For example, South Carolina institutions responded to the deregulation of distance learning programs by forming their own "coordinating" entity in an effort to prevent possible duplication and competition.

Many of the states highlighted in this report see this shift of responsibility as necessary, however. As they take on the role of facilitator, hopefully the quality of new program development will improve and institutional accountability will be strengthened as administrators and boards take a more active interest in program decisions. In this environment, the role of the state board changes but does not disappear. Few public officials, for example, are going to let the market "work its magic" without consideration of public and political considerations. Small rural institutions that play an important role in the economic life of their communities will continue to be protected as will private colleges in some states. On the issue of duplication of expensive programs, political leaders (even those supportive of deregulation), are likely to continue to pressure state boards to avoid the human and capital costs of an open competitive

system. As Jim Sulton from Colorado noted, "Once you have a building in place, you cannot take it away because the enrollments didn't pan out."

Some academic officers clearly view deregulation as a diminution of their agency's power and raison d'être. "If we let go of program approval and review, our role becomes that of identifying big issues, setting the agenda, and collecting data," commented one academic officer. "If we give up our regulatory levers, then no one pays attention to us, and we essentially become a planning agency." On the other hand, Gordon Davies of the Kentucky Council noted that the most powerful levers to influence change are not necessarily the regulatory ones. Program review, he said, should be used as a tool for "intellectual provocation, to engender discontent and creative restlessness."

The original purpose of program approval and review, as mentioned earlier, was to "rationalize" growth and promote efficiency by maintaining central control of a statewide program inventory. Most would agree that the original purpose no longer applies, but the function is by no means obsolete. State boards are finding creative ways to renew and streamline program approval and review so that it is less bureaucratic and burdensome to institutions. This paper identified several states that are placing less emphasis on the front-end approval process and greater emphasis on program review and accountability. Other states are changing their approach to program development by first identifying state needs through market research, then strategically funding areas of high priority to the state. Several states are "ratcheting down" or delegating authority for some program-related decisions. And numerous states have begun deregulating policies governing distance education programming. A few states, such as Kentucky, are beginning to look comprehensively at the "quality assurance" function of the board, and develop an integrated set of academic program policies (ranging from program development to approval to assessment).

The answers to this complex problem of regulation or deregulation are as different as the many state systems themselves. States will respond to the issue of academic program deregulation in different ways depending on their size, complexity, policy "maturity," governance structure, and politics (or tradition of "protecting" institutional turf). Regulatory reform often swings like a pendulum from one extreme to another. Tight resources, egregious examples of low productivity, and consumer fraud lead governmental bodies to intervene -- often with across the board policies that affect the guilty as well as the innocent. Then as resources become available and demand for higher education grows, there are pressures -- both internal and external -- to "open up the system" so that institutional creativity and entrepreneurship can be used to meet important public needs. This, in turn, can lead to some counter-reaction to this too open environment, either from consumers who have been harmed or from institutions themselves that seek order and predictability from market vagaries. Hopefully, SHEEO agencies are seeking, and finding, that important middle ground.

Endnotes

[1] A 1997 study of five deregulated industries showed that competition and customer choice yield benefits for all classes of consumers. See Crandall, Robert, and Ellig, Jerry. "Economic Deregulation and Customer Choice: Lessons for the Electric Industry." The Brookings Institution, Washington, DC, and the James Buchanan Center for Applied Research, Fairfax, VA, 1997.

[2] See Mingle, James R. "Responding to the New Market for Higher Education." In *AGB Priorities*, No. 11. Washington, DC: Association of Governing Boards, 1998.

[3] MacTaggart, Terrence J. *Seeking Excellence Through Independence: Liberating Colleges and Universities from Excessive Regulation.* San Francisco: Jossey-Bass, 1998.

[4] Robert O. Berdahl has made a useful distinction between the former as "procedural" autonomy and the latter as "substantive" autonomy, neither of which threatens or should be confused with academic freedom. See Berdahl, Robert O. *Statewide Coordination of Higher Education.* Washington, DC: American Council on Education, 1971.

[5] Millett, John D. *Conflict in Higher Education: State Government Coordination Versus Institutional Independence.* San Francisco: Jossey-Bass, 1984.

[6] Greenberg, Ruth. "Academic Program Policy Changes: Survey Results." Presented at the annual meeting of the State Higher Education Academic Officers (SHEAO), Providence, Rhode Island, August 24, 1998.

[7] For a full discussion of the concept of "academic audit," see Dill, David D., Massy, William F., Williams, Peter R., and Cook, Charles M. "Accreditation & Academic Quality Assurance: Can We Get There From Here?" *Change*, September/October 1996.

[8] NCHEMS. "Oklahoma Learning Site Policy." Revised Draft, October 20, 1998.

[9] State of Illinois Board of Higher Education. "An Implementation Plan for the University Center of Lake County: A Committee Report," December 15, 1998

[10] Brown, Don. "Adding Value to Texas Higher Education: A New Direction For The Texas Higher Education Coordinating Board (THECB)." Austin, TX: THECB, July 1998.

[11] Brown, Don. "Proposed rules on decentralizing decisions about program and facilities proposals that are of lesser statewide significance." A memorandum to Coordinating Board members, September 29, 1998.

[12] State of Illinois Board of Higher Education. "New Approaches to Program Approval and Review." Board Agenda Item #8C, October 6, 1998.

[13] South Carolina Commission on Higher Education. "Guidelines for New Academic Program Approval: Definitions, Policies, and Procedures," September 1998.

[14] Kentucky Council on Postsecondary Education. "Streamlining Academic Program Policies." Agenda Item F-2, September 14, 1998.

[15] Indiana Commission for Higher Education. "Policy for Delivering Degree Programs Through Distance Education Technology," March 13, 1998.

[16] Greene, Winfred S. "Revised Guidelines for New Academic Program Approval." A memorandum from the chairman of the Committee on Academic Affairs to the Chairman and members of the Commission on Higher Education, September 3, 1998.

[17] Oklahoma State Regents for Higher Education. "Policies and Procedures Pertaining to the Electronic Delivery of Courses and Programs." II-3-8.2, June 1998.